

DECLARATION OF UNIT OWNERSHIP  
 THE OCEANS CONDOMINIUMS  
 NAGS HEAD, NORTH CAROLINA

Coastal Development Group, a North Carolina partnership, does hereby state and declare:

Section 1. Statement of Submission.

A. Coastal Development Group is the record owner of the land hereinafter described and hereby declare and submit the same to the condominium form of ownership and use in accordance with Chapter 47A of the General Statutes of North Carolina, entitled Unit Ownership Act.

1. The name by which the Condominium is to be identified is "The Oceans", located in the Town of Nags Head, Dare County, North Carolina.

2. The legal description of the land which is included in and submitted to Condominium ownership is located in the Town of Nags Head, Nags Head Township, Dare County, North Carolina and more particularly described in "Exhibit A" attached hereto and incorporated herein as if more fully set forth.

Section 2. Definitions. All terms shall have the meaning as set out in Chapter 47A of the General Statutes of North Carolina and in addition thereto and for clarification, the following terms shall have the following meanings:

A. "Apartment Unit" means "Condominium Unit" or "Unit" and is synonymous therewith as defined in N.C.G.S. 47A-3(12).

B. "Association" or "Association of Unit Owners" means all of the unit owners acting as a group in accordance with the By-Laws and Declaration. As to The Oceans Condominiums, this term means The Oceans Homeowners Association, Inc., a nonprofit corporation organized and existing under the laws of the State of North Carolina.

C. "Articles" means the Articles of Incorporation of The Oceans Homeowners Association, Inc.

D. "Building" means a building, or a group of buildings, each building containing two or more units, and comprising a part of the property.

E. "By-Laws" means the By-Laws of The Oceans Homeowners Association, Inc.

F. "Common Areas" or "Common Elements" means all that portion of the Condominium property which is not included in the individual Condominium units and as further defined in N.C.G.S. 47A-3(2), except those items listed in paragraphs 'h' therein, unless specifically set out in this section.

G. "Common Expenses" means expenses for which the Condominium unit owners are liable to the Association as defined in the North Carolina Unit Ownership Act and in the Condominium documents and includes:

1. All sums lawfully assessed against the unit owners by the Association of Unit Owners;

2. Expenses of administration, maintenance, repair or replacement of the common areas and facilities, and Association owned property;

3. Expenses agreed upon as common expenses by the Association of Unit Owners;

4. Expenses declared common expenses by the provisions of Chapter 47A of the General Statutes, or by the Declaration or the By-Laws;

5. Hazard insurance premiums, if required.

H. "Common profits" means the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses.

I. "Condominium" means the ownership of single units as a multi-unit structure with common areas and facilities.

J. "Declaration" means the instrument, duly recorded, by which the property is submitted to the provisions of Chapter 47A of the General Statutes, as hereinafter provided, and as such declaration from time to time may be lawfully amended.

K. "Developer" means Coastal Development /, a North Carolina partnership qualified to transact business in the State of North Carolina.

L. "Limited common areas and facilities" means and includes those common areas and facilities which are agreed upon by all the unit owners to be reserved for the use of a certain number of units to the exclusion of the other units, such as special corridors, stairways, sanitary services common to the units of a particular floor, and the like.

M. "Majority" or "majority of unit owners" means the owners of more than fifty (50%) percent of the aggregate interests in the common areas and facilities as established by the Declaration, assembled at a duly called meeting of the unit owners.

N. "Person" means individual, corporation, partnership, association, trustee, or other legal entity.

O. "Property" means and includes the land, the buildings, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended to be submitted to the provisions of this chapter.

P. "Owner" means Coastal Development Group.

Q. "Recordation" means to file or record in the Office of the Register of Deeds in the county where the land is situated, in the manner provided by law for recordation of instruments affecting real estate.

R. "Unit" or "condominium unit" means an enclosed space consisting of one or more rooms occupying all or part of a floor in a building of one or more floors or stories regardless of its designated use and shall include such accessory spaces and areas as may be described in the Declaration, such as garage space, storage space, balcony, terrace or patio, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.

S. "Unit designation" means the number, letter or combination thereof designating the unit in the Declaration.

T. "Unit owner" means a person, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns a unit within the building.

Section 3. Building Description. A description of the Condominium Building is set forth on an attachment to this Declaration labeled "Building Description" and "Exhibit 'D'".

Section 4. Apartment Unit Designation and Description. There are nine (9) condominium unit apartments in the condominium building, each apartment being designated by a numerical figure, consisting of three digits. The third digit indicates the floor level with the lowest floor being designated "1" and the second and third designated "2" and "3", respectively. The second or middle digit is a zero (0). The first digit represents the stack with the number "1" signifying the Northeast stack, "2" signifying the middle stack and "3" signifying the Southwest stack.

Each of the condominium living units shall be known and designated by the number shown for each unit on the Floor Plans Sheet. Each unit shall consist of an enclosed space designated as a dwelling occupying one floor in a building as shown on the plats recorded in the Dare County Registry and lying between the unfinished surface of the floor and the unfinished surface of the ceiling of each floor or story of the building and between the interior finished surface on the inside of each unit. The balcony adjoining each unit shall be a part thereof and shall be bounded horizontally by vertical planes coinciding with the interior surface of the railings, and the exterior surface of the wall of the building, and extending vertically from the top of the unfinished floor

of the balcony to a horizontal plane in an extension of the bottom of the unfinished ceiling of the unit.

Each condominium unit shall include the exclusive right to all space and facilities located within the area above described for each such unit including, but not limited to, partitions, doors, windows, plumbing, electric and other facilities located within that condominium unit, except such elements hereinafter described as general common elements.

Each apartment unit shall have access over a common area walkway leading to the center deck and pool area.

Section 5. Common Elements, Areas and Expenses Related Thereto.

A. The general common elements or areas located in The Oceans Condominiums shall be as follows:

1. Except as excluded in this Section 5, all of the land and the premises above described in Section 1 hereof, including all appurtenant rights thereto, shall be general common elements. All facilities located underground shall be general common elements, including any septic tank installation and associated pumps, tanks, drainfields, and lines, and waste treatment facilities and systems associated therewith.

2. At the ground level and extending thereupwards, all of the area of said premises not included in the condominium units as described in Section 4 hereof and all facilities not located in said condominium areas, including pool and center deck area, shall be general common areas.

3. Any lighting facilities, equipment and wiring installed to illuminate the above general common elements and all electric lines, both primary and secondary, leading to but exclusive of any individual unit electric meter, shall also be general common elements.

4. In addition, those items set out in N.C.G.S 47A-3(2), except as herein reserved or excepted, shall be general common elements.

5. Also included as general common elements are water supply lines to the individual common units, vent lines, plumbing facilities, sanitary sewerage lines, waste pipes and vents, located outside the individual condominium units.

B. Each condominium unit or apartment owner shall own a share in the common elements and in any surplus funds possessed by The Oceans Condominiums, and shall be liable for the common expenses as follows:

<u>UNIT NO.</u>	<u>AMOUNT</u>	<u>PROPORTIONATE SHARE</u>
101	\$105,000.00	11.0228%
102	109,000.00	11.4376
103	115,000.00	12.0672
201	98,000.00	10.2833
202	105,000.00	11.0178
203	109,000.00	11.4376
301	98,000.00	10.2833
302	105,000.00	11.0178
303	109,000.00	11.4376
9 Units	\$953,000.00	100.00% TOTAL

Section 6. Limited Common Elements or Areas.

There are no limited common elements or areas in The Oceans Condominiums.

Section 7. Easements.

A. Perpetual Non-Exclusive Easement in Common Areas. The common elements or areas shall be, and the same are hereby declared to be subject to a perpetual non-exclusive easement which easement is hereby created, in favor of all of the apartment or unit owners in the condominium for their use and for the

use of their immediate families, guests, invitees and licensees, and for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended. In addition, this easement shall run in favor of the developer, the Condominium Association, and all unit owners, and may be used for the providing of electric power, telephone, sewer, water, and other utility services and lighting facilities, including but not limited to television transmission facilities, security services, and facilities connected therewith. The owners, for themselves, their heirs and assigns and the Association herein described reserve the right to impose upon the common elements henceforth and from time to time such easements and cross easements for any of the foregoing purposes as they deem to be in the best interest of and necessary and proper for, the owners of apartments and units in The Oceans Condominiums.

B. Encroachment Easement. The entire condominium property, including common areas and individual condominium units or apartments shall be subject to easements for encroachments which now exist, caused by the settlement or movement of the building, or caused by minor inaccuracies in construction or reconstruction, which encroachments shall be permitted to remain undisturbed and which said easement shall run in favor of each individual condominium unit owner, the Association and the developer.

C. Easement for Recreation, Parking, Access, Egress and Ingress. There is hereby conveyed and reserved a non-exclusive easement of access, egress and ingress to and from the condominium building and U.S. Highway 158 Business and the Atlantic Ocean and for other purposes herein expressed over, upon and across all of the lands dedicated to unit ownership and described in Section 1 of this Declaration.

The herein conveyed easement shall be subject to such regulations and rules as to the use thereof as may be promulgated by the Association from time to time, which said regulations may control and regulate parking, assignment of parking spaces, walkways, driveways and passageways. The aforesaid easement is also subject to the right of the Association and the owners to construct, build or place thereon such recreational facilities as, but not limited to a swimming pool as in the discretion of the owners or the Association may be deemed desirable.

D. Easement for Construction. There is retained, by the owners, a construction easement over, upon and across the common elements or areas and also, over, upon and across those lands set out and described in Paragraph C of this Section for the purposes of constructing improvements on the properties now owned by the owners, said easement to run in favor of the owners, their heirs, and assigns, their contractor and subcontractors, laborers, and materialmen. This easement shall expire and become null and void upon completion of the permanent improvements on said properties.

E. Easements for Utilities, Sewerage and Waste Treatment Facilities. There is conveyed hereby an easement of right of way in and to the lands described in Paragraph C of this Section, for the benefit of the condominium unit owners and the Association, for the construction, operation and maintenance of all utility lines, and pipes, sewerage lines, septic tanks, waste treatment facilities, pumps, drain lines and facilities related thereto, which said easement shall also inure to the benefit of the owners, and all future property owners located or to be located in the tract owned by the owners.

#### Section 8. Statement of Purpose and Restrictions as to Use.

A. The Oceans Condominiums are residence-type condominiums and shall be used for single-family residencies, vacation or resort living units by the unit owner, his family, servants and guests, or tenants and lessees, their servants and guests, and for no other purposes. No condominium unit may be used for a commercial, professional, or home business enterprise or as a hotel or motel, provided, however, that this section will not prevent any unit owner from renting or leasing his condominium unit either himself or through his agent.

B. Each condominium unit is subject to alienation, mortgage or transfer as is any other real property located within the State of North Carolina, however, no condominium unit owner may mortgage or convey by deed of trust his apartment or condominium unit or convey the same as collateral, to any person, firm or corporation except as said conveyance, mortgage or deed of trust shall be a first lien deed of trust or first mortgage or a purchase money mortgage or deed of trust on the condominium unit, unless prior approval is obtained from

C. The space within any of the condominium units and common elements shall not be further subdivided and any instrument, whether a conveyance, mortgage, deed of trust or otherwise, which describes only a portion of the space within any apartment shall be deemed to describe the entire apartment unit owned by the person, firm or corporation executing such instrument.

D. No condominium unit owner shall show any sign, advertisement or notice on any of the common elements, windows, porches, or balconies, or upon his condominium unit and shall erect no exterior antenna or antenna upon any portion or any part of his apartment or on any of the common elements.

E. An individual condominium unit owner may keep a pet or pets in his unit, but only under the regulations as promulgated by the Association from time to time, and no person may keep any other animals, livestock, or poultry nor may any of the same be raised, bred or kept upon any portion of the condominium property, including the common elements, balconies and terraces. The Association shall have the authority to declare any pet or pets a nuisance and may cause the owner thereof to remove the same from the condominium property.

F. No apartment or unit owner shall permit or suffer anything to be done or kept in his unit which will increase the insurance rates on his unit or the common elements, or which will obstruct or interfere with the rights of other unit owners or use the unit in a manner which creates noxious odors or otherwise; nor shall an individual unit owner commit or permit any nuisance, immoral or illegal act in his unit, or on the common elements.

G. No trailer, tent, storage shed, garage or other similar outbuilding or structure shall be placed on the property at any time, either temporarily or permanently, excepting that individual boat trailers, not exceeding the size of one parking space, may be permitted provided said parking space or area is properly assigned to the individual unit owner who owns the said boat trailer or with the express written consent of any other unit owner for the use of his assigned parking space therefor. This restriction shall not apply to the owners, their contractor, subcontractors, laborers or materialmen until such time as all apartment or condominium units have been constructed and sold in the Oceans Condominiums.

H. No condominium unit owner shall make structural modifications or alterations in his unit or the permanent fixtures therein unless he has previously obtained written approval therefor, in writing from the Board of Directors of the Association.

I. Unit owners shall abide by and be subject to such rules and regulations as may be adopted by the Association and as may be set out herein or in the By-Laws of the Association as the same from time to time may be amended.

Section 9. Use and Transfer of Parking Spaces.

A. The owner shall assign the use of two (2) particular parking spaces to a particular condominium unit at the time the unit is originally acquired from the owner. The assignment of use shall be made by describing the particular parking space by reference thereto in a book entitled "Parking Space Assignments" which book shall be maintained by the owner and at such time as the owner transfers all authority to the Association, which said book shall be for the purpose of listing each assignee of each parking space and the transfer thereof. Upon a conveyance of or the passing of title to the condominium unit to which said parking space is assigned, the owner of the said unit making the conveyance shall deliver notice of transfer thereof to the Association which shall thereupon cause to be executed a new assignment in the assignment book.

B. Parking spaces may be separately transferred upon the following conditions:

1. At any time a parking space may be surrendered or transferred by a unit owner to the Association.
2. The use of a parking space may be transferred by a unit owner to any other unit owner within the condominium provided that written notice thereof, executed by the transferor and the transferee shall be submitted to the Association which shall record such transfer in the assignment book.

3. The Association shall have the absolute right to assign parking spaces assigned or transferred to the Association and requests for the assignment of parking spaces held by the Association shall be considered by the Association on a first come, first served basis or on such other arrangement as the Board of Directors may designate for allocation of parking spaces even to the extent of taking no action on such subject.

C. No trucks used for commercial purposes, or trucks over one-half ton capacity may be parked overnight. Only vehicles bearing current license and registration tags may be parked overnight. The Association shall have the right to authorize the towing away of any violating vehicles with costs to be borne by the owner or operator thereof.

Section 10. Maintenance and Alteration of Apartments.

A. The Association shall maintain, repair and replace all portions of the condominium building, except interior surfaces and walls, contributing to the support of the apartment building, which portions shall include but not be limited to the outside walls of the apartment building and all fixtures, including plumbing and electrical fixtures, on the exterior thereof; boundary walls of apartments; floor slabs and roofs; and load-bearing piers and load-bearing walls.

B. The responsibility of the apartment unit owner shall be:

1. To maintain, repair and replace at his expense all portions of his apartment unit except the portions to be maintained, repaired and replaced by the Association.

2. Not to paint, or otherwise decorate or change the appearance of any portion of the exterior of the condominium building.

3. To repair any frozen pipes, repair any stopped sewer and sink lines, to repair any heating and air conditioning equipment, whether located within an apartment unit or on a limited common element, and to replace any broken window panes or doors that serve an individual apartment unit.

4. To promptly report to the Association any defect or need for repairs, the responsibility for which is that of the Association.

C. Neither a unit owner nor the Association shall make any alteration in the portions of an apartment unit or the building which is to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do anything which would jeopardize the safety or soundness of the building or impair any easement, without first obtaining approval in writing of owners of all apartment units in the condominium building.

Section 11. Maintenance and Alterations of Common Elements and Association Property.

A. The maintenance and operation of the common elements, and property, real and personal, owned by the Association shall be the responsibility and expense of the Association.

B. After the completion of the improvements including the common elements which are contemplated by this Declaration, there shall be no alteration or further improvements of the real property constituting the common elements without prior approval in writing by the owners of not less than 75% of the common elements and any such alteration or improvement shall not directly interfere with the rights of any unit owner, without first obtaining his written consent. There shall be no change in the shares and rights of any unit owner in the common elements which are altered or further improved, whether or not such unit owner contributes to the cost thereof, except by an Amended Declaration.

Section 12. Assessments.

A. Assessments against apartment unit owners for common expenses shall be made pursuant to North Carolina General Statutes Section 47A-12 and the By-Laws of the Association shall be allocated as set forth in Section 5, Paragraph B of this Declaration.

B. Any sums assessed by the Association for the share of the common

expense chargeable to any unit, and remaining unpaid for a period of thirty (30) days or longer, shall constitute a lien on such apartment unit when filed for record in the Office of the Clerk of Superior Court of Dare County by the Association under the provisions of Articles 8 of Chapter 44 of the North Carolina General Statutes and any amendments or supplements thereto. The lien created herein shall be prior to all other liens except (a) liens for real estate taxes due and unpaid, (b) all sums unpaid on deeds of trust and other encumbrances recorded against the unit prior to the docketing of this lien and (c) materialmen's and mechanic's liens.

C. A lien created pursuant to Paragraph B above may be foreclosed by suit by the Board of Directors of the Association, acting on behalf of the apartment unit owners, in like manner as a foreclosure of a deed of trust or mortgage of real property. The Board of Directors of the Association, acting on behalf of the apartment unit owners, may maintain a suit to recover a money judgement for unpaid common expenses without foreclosing or waiving the lien securing said common expenses. The unit owner shall be responsible for all court costs, interest and reasonable attorney's fees incurred in the collection, by foreclosure or otherwise, of said lien for common expenses. Except for purchasing at foreclosure as herein stated, the Association shall not purchase or own a condominium unit.

D. Any sum assessed by the Association for the share of the common expenses due prior to the acquisition of title to an apartment unit pursuant to a foreclosure proceeding of a mortgage or deed of trust shall not be assessed against the mortgage or deed of trust of record who forecloses said mortgage or other purchaser of the apartment unit as a result of the foreclosure of a mortgage. Any sums assessed against the apartment unit which is the subject of a foreclosure of a mortgage shall be collectible, from the former owner, or if not collectible, from all apartment unit owners, including the purchaser at the foreclosure sale, in the proportions which their shares in the common elements bear to each other.

E. No apartment unit owner may exempt himself from contributing toward the common expenses by waiver of the use or enjoyment of the common elements and facilities or by abandonment of the apartment unit belonging to him.

Section 13. Association. The operation of the condominium shall be by The Oceans Condominium Association, Inc., hereinafter called the Association, a non-profit corporation under the laws of North Carolina which shall be organized and shall fulfill its functions pursuant to the following provisions.

A. The members of the Association shall be the condominium unit owners.

B. The Association shall be incorporated under the Articles of Incorporation in the form attached as "Exhibit B", but the Articles of Incorporation may be amended as permitted by law without amending this Declaration.

C. The initial By-Laws of the Association shall be in the form attached as "Exhibit C", but may be amended as therein provided or as permitted by law without amending this Declaration, except as required by law.

D. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to such member's apartment unit.

E. Whenever the decision of an apartment unit owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person, in person or by proxy who would cast the vote of such owner if in an Association meeting. Where any unit is owned as a tenancy in common or as a tenancy by the entirety, said tenants may determine between or among themselves how the vote to which they are entitled shall be cast, but the chairman of the meeting of the Association shall not accept any division of a vote that said owners would otherwise be entitled to cast if said tenants do not unanimously agree between or among themselves as how their vote would be cast.

Section 14. Insurance.

A. Insurance policies upon the condominium property covering the items described in Paragraph B of this Section shall be purchased by the Association for the benefit of the Association and the apartment unit owners and their

mortgagees as their interests may appear. Such policies and endorsements shall be issued in the name of and deposited with the Board of Directors of the Association as trustee for each of the apartment unit owners in the percentages of interest of each apartment unit owner established in this Declaration in Section 5.

B. Insurance shall cover the following:

1. All buildings and improvements upon the land and all personal property included in the common elements shall be insured in an amount equal to the maximum insurable replacement value without deduction for depreciation, as determined annually by the Board of Directors of the Association. Such coverage shall afford protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, including flood insurance and such other risks as are customarily covered with respect to buildings similar to the buildings on the land, such as vandalism and malicious mischief.

2. Public liability insurance in such amounts and with such coverages as shall be required by the Board of Directors of the Association, and with a cross-liability endorsement to cover liabilities of the apartment unit owners as a group to an apartment unit owner.

3. Workmen's compensation as required by law.

4. Such other insurance as the Board of Directors of the Association may determine from time to time to be desirable.

C. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

D. The Board of Directors of the Association, acting on behalf of the apartment unit owners, is hereby irrevocably appointed agent for each apartment owner to adjust all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon the payment of claims.

E. All apartment unit owners and mortgagees of the apartment unit owners shall be furnished copies of each insurance policy purchased by the Association, showing the name of the insurance trustee, the name of the insurance company, the policy number, the effective date and the expiration date of the policy, the total amount of the policy and the name and address of the insurance agent issuing the policy. The copy shall also provide that the apartment unit owner and the mortgagee of each apartment unit owner shall be furnished notice of any change in or cancellation of the policy within thirty (30) days prior to the effective date of said change or cancellation.

F. Each apartment unit owner shall have the right to insure his own apartment unit for his own benefit, though his provision will not alter or vary the requirement that the Association purchase insurance on the building and improvements in the condominium. Any apartment unit owner that has made, or does make, permanent improvements within his apartment unit that have become or will become affixed to the realty, and who desires additional specific contingent insurance on such improvements, may request the Association's insurance trustee to include this coverage as a separate item in the standard Improvements and Betterments clause of the Association's policy, the premiums for said additional coverage to be paid in advance by the apartment unit owner so requesting the coverage at his own expense and said premiums shall not be a portion of the common expenses of the Association. The Association's insurance trustee may not unreasonably deny such a request, but it shall not be liable for failure to see that such additional insurance is properly issued.

G. The Association will not purchase or obtain insurance to cover the personal property of an apartment unit owner, nor will the Association purchase or obtain insurance to cover the individual liability of an apartment unit owner for injuries and damages suffered by anyone or anything within the apartment unit if said injuries or damages are not a liability of the Association.

Section 15. Repair and Replacement of Destroyed Property.

A. Damage to or destruction of the building and improvements shall be promptly repaired and restored by the Board of Directors of the Association using the proceeds of insurance for that purpose. If there is a deficiency in the proceeds of the insurance policies, the apartment unit owners shall be assessed, as a common expense, the difference between the amount of insurance



proceeds and the amount necessary to repair, rebuild or replace the damaged building or improvement to its original condition.

B. All repairs or reconstruction shall be made substantially in accordance with the plans and specifications used for the original structures or buildings, which plans are recorded in the Office of the Register of Deeds of Dare County, North Carolina.

C. If the building shall be more than two-thirds (2/3) destroyed by fire or other disaster and the owners of three-fourths (3/4) of the units duly resolve not to proceed with repair or restoration, then and in that event:

1. The property shall be deemed to be owned as a tenancy in common by the unit owners;

2. The undivided interests in the property owned by the unit owners as tenants in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities;

3. Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the unit owner in the property as provided herein;

4. The property shall be subject to an action for sale for partition at the suit of any unit owner, in which event, the net proceeds of sale, together with the net proceeds of insurance policies, if any, shall be considered as one fund and shall be divided among all the unit owners in proportion to their respective undivided ownership of the common areas and facilities, after first paying out of the respective shares of unit owners, to the extent sufficient for that purpose, all liens on the unit of each unit owner; and such other encumbrances consistent with deeds of trust against various units and to the respective unit owners as their interests appear.

5. All real property owned by the Association itself shall be transferred by recordable instrument to the individual unit owners in the same proportions as their ownership in the common areas appear.

D. Any proceeds remaining from any insurance policies after damages for which proceeds have been paid for repair or restoration, and such repaid or restoration has been completed, shall be paid to the Association to be applied to common expenses.

E. If damage occurs only to those parts of an apartment unit for which the responsibility of maintenance and repair is that of the apartment unit owner as provided in Section 10, then the apartment unit owner shall be responsible for construction and repair after casualty.

Section 16. Compliance and Default.

A. Each apartment unit owner shall be governed by and shall comply with the terms of this Declaration, the By-Laws of the Association and the regulation adopted pursuant thereto, and by such documents and regulations as the same may be amended from time to time. A violation or default shall entitle the Association, or other apartment unit owners, to the relief described in Paragraph D of this Section in addition to the remedies provided by the Unit Ownership Act.

B. An apartment unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family or his or their guests, tenants, employees, agents or lessees. This provision shall apply even though the maintenance, repair or replacement would otherwise be a common expense to be paid by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of an apartment unit or its appurtenances.

C. The failure of the Association or any apartment unit owner to enforce any covenant, restriction or other provision of this Declaration, by By-Laws of the Association or the regulations adopted thereto, shall not constitute a waiver of the right to do so thereafter.

D. Any unit owner, the manager, Board of Directors of the Association

or a combination of unit owners may invoke any appropriate civil remedy to enforce the terms of this Declaration or the By-Laws of the Association.

Section 17. Amendments. This Declaration may be amended by the Association in the following manner:

A. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the members of the Association at which a proposed amendment is to be considered.

B. A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by any member of the Association. Directors and members not present in person or by proxy at any meeting considering the amendment may express their approval in writing, providing, such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be by not less than 75% of the entire membership of the Association.

C. No amendment shall discriminate against any apartment unit owner or against any apartment unit or class or group of apartment units unless the apartment unit owners so affected shall consent. No amendment shall change any apartment unit owner's share in the common elements appurtenant to his unit, nor increase the apartment unit owner's share of the common expenses unless the record owner of the apartment unit and all record owners of liens thereon shall join in the execution of the amendment.

D. A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the Office of the Dare County Register of Deeds.

Section 19. Agent for Service of Process.

A. Starkey Sharp, Esq., whose address is Kellogg, White, Evans, Sharp and Michael, Post Office Box 221, Kitty Hawk, North Carolina 27949, is hereby designated as the agent upon whom service process may be made in any action or proceeding brought against the condominiums.

Section 20. Termination.

A. This condominium may be terminated by all of the apartment unit owners executing an instrument for that purpose to be recorded in the Dare County Registry. Said instrument must also include the consent of all holders of liens on apartment units that his or its lien may be transferred to the percentage of the undivided interest of the apartment unit owner subsequent to termination.

B. When a termination has been effected as herein provided, all the property previously subject to the Unit Ownership Act shall be deemed to be owned by all of the apartment unit owners as tenants in common, including those parcels of land over which an apartment unit is situated. And further, the Association, prior to dissolution, shall convey to all the unit owners, as tenants in common, all real property owned by the Association by a duly executed deed of conveyance. Each tenant's undivided interest shall be that percentage of the undivided interest previously owned by such apartment unit owner in the common elements and facilities.

Section 21. Status of Owners.

A. Upon initial creation of The Oceans Condominium Association, Inc., the owners shall have control of and shall appoint the Board of Directors therefor. At such time as six (6) units are sold in the condominium building, the owners, within fifteen (15) days, shall turn over and deliver control of the Condominium Association Board of Directors to the duly-elected officers of The Oceans Homeowners Association, Inc., as provided in the Articles of Incorporation and the By-Laws.

B. For as long as the owners are the record owners of one or more condominium apartment units which remain unsold, the owners shall be responsible for and pay their prorata portion of the common expenses as determined by the Association.

C. Until the owners have sold all of the apartment units, neither the condominium unit owners, nor the Association, nor the use of the condominium

property shall interfere with the completion of the contemplated improvements and sale of the condominium units. The owners may make use of the unsold condominium apartment units and common areas as may facilitate completion of the construction thereof and sale, including but not limited to the maintenance of a sales office, model apartment, the showing of the property and displaying of advertising signs.

Section 22. Severability. If any provision of this Condominium Declaration or any of the condominium documents is held to be invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Declaration and the other condominium documents shall not be affected thereby.

IN TESTIMONY WHEREOF, the authorized partners of Coastal Development Group hereunto set their hands and seals this 21st day of July, 1983.

COASTAL DEVELOPMENT GROUP

By: [Signature] (SEAL)  
General Partner

STATE OF North Carolina  
CITY/COUNTY OF Dare

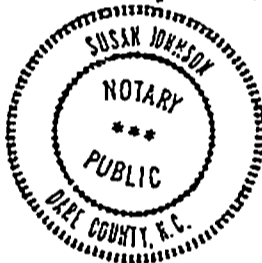
I, a Notary Public in the State and City/County aforesaid, do hereby certify that Aral A. Barnes, General Partner of Coastal Development Group, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and seal, this the 21st day of July, 1983.

[Signature]  
Notary Public

My Commission Expires:

October 2, 1983



NORTH CAROLINA DARE COUNTY

The foregoing Certificate(s) of Susan Johnson a Notary Public of Dare Co., NC

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Alan A. Wise Register of Deeds For Dare County

By: Dave Johnson Deputy/Assistant Register of Deeds

RECORDED: Aug 8, 1983

Exhibit A

Property Description

Beginning at an iron pin situated in the corner of the Carolinian Hotel property located in the East edge of U.S. 158 Business; continuing thence along said highway, North 19° 30' West 111 feet a distance of 111 feet to a corner; thence turning and running North 70° 30' East a distance of 473.52 feet, more or less to the highwater mark of the Atlantic Ocean; thence turning right and running in a Southerly direction along the Atlantic Ocean to the Carolinian Hotel property; thence turning and running South 70° 30' West a distance of 474.52 feet, more or less, to an iron pin, the point and place of beginning.

Same being the property conveyed to Grantor herein by deed recorded in Book 329, page 77, Dare County Public Registry.

Reference is made to the survey of the condominium property which is included with and made part of the plans for this condominium recorded with this declaration in the Condominium and Unit ownership plat book.

2.1.11 1911

# State of North Carolina



Department  
of the  
Secretary of State

To all to whom these presents shall come, Greeting:  
I, Thad Eure, Secretary of State of the State of  
North Carolina, do hereby certify the following and  
hereto attached ( 2 sheets) to be a true copy of

ARTICLES OF INCORPORATION

OF

OCEANS HOMEOWNERS ASSOCIATION, INC.

and the probates thereon, the original of which was  
filed in this office on the 29th day of July 19 83,  
after having been found to conform to law.

In Witness Whereof, I have hereunto set my hand  
and affixed my official seal.

Done in Office, at Raleigh, this 29th day  
of July in the year of our Lord 19 83.



*[Signature]*  
Secretary of State  
By *[Signature]*  
Deputy Secretary of State

Exhibit B

ARTICLES OF INCORPORATION

OF

OCEANS HOMEOWNERS ASSOCIATION, INC.

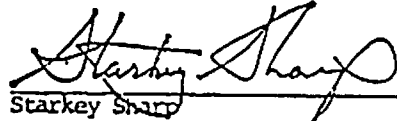
The undersigned, being of the age of eighteen years or more, does hereby make and acknowledge these Articles of Incorporation for the purpose of forming a non-profit corporation under and by virtue of the laws of the State of North Carolina.

1. The name of the corporation is Oceans Homeowners Association, Inc.
2. The period of duration of the corporation is perpetual.
3. The purposes of which the corporation is organized are:
  - a. To maintain and administer the condominium properties and facilities of The Oceans Condominiums, located in Nags Head, Nags Head Township, Dare County, North Carolina.
  - b. To administer and enforce the covenants and restrictions and to collect and disburse the assessments and charges of said condominium.
  - c. To conduct such services, duties and functions strictly on a non-profit basis for the mutual benefit of all owners of the condominium units with The Oceans Condominiums.
4. The members of the corporation shall be the record owners of the condominium units within The Oceans Condominiums. The corporation shall have only one class of voting members, the rights of which members shall be designated in the By-Laws of this corporation.
5. The directors of the corporation shall be elected by the members in the manner provided by the By-Laws.
6. The address of the initial registered office of the corporation in the State of North Carolina is Post Office Box 221, Kitty Hawk, North Carolina 27949; and the name of its initial registered agent at such address is Starkey Sharp.
7. The number of directors constituting the initial board of directors shall be three; and the names and addresses of the persons who are to serve as the initial directors are:

<u>NAME</u>	<u>ADDRESS</u>
Neal A. Barnes	Route 3-11 Fairway Road Petersburg, Virginia 23803
J. Baxter Bailey	Route 3-11 Fairway Road Petersburg, Virginia 23803
I. Roland Specter	Route 3-11 Fairway Road Petersburg, Virginia 23803

8. The name and address of the incorporater is Starkey Sharp, Post Office Box 221, Kitty Hawk, North Carolina 27949.

IN WITNESS WHEREOF, I have hereunto set my hand, this the 27<sup>th</sup> day of July, 1983.

  
 Starkey Sharp

NORTH CAROLINA  
DARE COUNTY

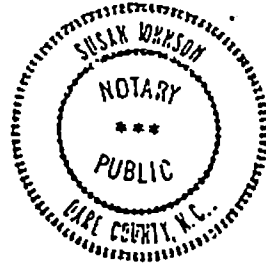
I, Susan Johnson, a Notary Public in and for the  
aforesaid State and County, do hereby certify that Starkey Sharp personally  
appeared before me this day and acknowledged the due execution of the  
foregoing instrument.

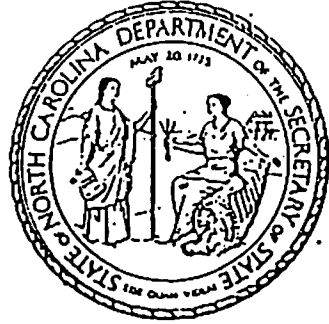
WITNESS my hand and notarial seal, this the 27th day of July,  
1983.

My Commission Expires:

October 2, 1983

Susan Johnson  
Notary Public





# State of North Carolina

### NOTICE

The issuance of a corporate charter to any domestic corporation or a certificate of authority to any foreign corporation does not authorize the use in this State of the corporate name in violation of the rights of any person or entity under the Federal Securities Act of 1933 or the laws of this State, or to the name of the State or any of its agencies or departments or any other person or entity. The use of such name or other name will not be a defense to an action for violation of the such rights.

Certified Copy  
from  
The Department of The  
Secretary of State  
to be Recorded  
with the  
Register of Deeds  
of County of  
Registered Office

Recorded August 3, 1983  
Alva H. Wise  
Register of Deeds, Dare County, N. C.

By lmj



Exhibit C

BY-LAWS OF  
THE OCEANS CONDOMINIUMS

ARTICLE I

PLAN OF UNIT OWNERSHIP

Section 1. Unit Ownership. The Oceans Condominium, hereinafter referred to as Condominiums, located in the Town of Nags Head, Atlantic Township, Dare County, North Carolina, is submitted to the provisions of Chapter 47A of the General Statutes of North Carolina, "Unit Ownership Act". The administration thereof shall be by the Board of Directors herein described, subject to the powers of the owners as herein specified.

Section 2. By-Laws Applicability. The provisions of these By-Laws are applicable to the Condominiums. The term "Condominium" as used herein shall mean The Condominium Buildings and shall include the land directly beneath as well as the improvements thereon. In construing these By-Laws, and the government of the Condominium thereto, the provisions of Chapter 55A of the General Statutes of North Carolina pertaining to the government of nonprofit business corporations, shall be considered as governing to the extent not inconsistent with the provisions of Chapter 47A of the General Statutes of North Carolina, the Declaration of Unit Ownership, and these By-Laws; the Condominium being considered the corporation and the owners being considered the members.

Section 3. Personal Application. All present and future owners, tenants and future tenants, and their employees, and any other person that may at any time use the facilities of the Condominium in any manner are subject to the regulations set forth in these By-Laws and to the declarations set forth in the Declaration of Unit Ownership ("Declaration") to which these By-Laws are attached.

The mere acquisition or rental of any of the Condominium Units ("Units"), or the mere act of occupancy of any of said units will signify that these By-Laws as they may be amended from time to time, are accepted, ratified and will be complied with.

ARTICLE II

THE OWNERS

Section 1. Owners. The Condominiums are owned by the owners of the units, each of whom shall be entitled to a percentage vote for each unit owned by him. The vote is to be determined by the percentage of ownership of the General Common elements as specified in Section 5 of the Declaration. No lessee, lienholder, mortgagee, pledge or contract purchaser shall have any voting rights with respect to the affairs of the Condominium.

Section 2. Annual Meetings. The Condominium shall hold each year, commencing with the year 1983, an annual meeting of the owners for the election of directors and the transaction of any business within the powers of the Condominium, on the 1st Saturday in June, in each year if not a legal holiday, and if a legal holiday, then on the first day following which is not a Sunday or holiday. Any business of the Condominium may be transacted at an annual meeting without being specifically required by statute, by the Declaration or these By-Laws to be stated in the notice. Failure to hold an annual meeting at the designated time shall not, however, invalidate the Condominium's existence or affect its otherwise valid acts.

Section 3. Special Meetings. At any time in the interval between annual meetings, special meetings of the Condominium may be called by the President or by a majority of the Board of Directors by vote at a meeting or in writing with or without a meeting, or by one-third (1/3) of the record owners of Condominium Units.

Section 4. Place of Meeting. All meetings of owners shall be held at the office of the Condominium in Nags Head, North Carolina, except in cases in which the notice thereof designates some other place, but all such meetings

shall be held within the State of North Carolina.

Section 5. Notice of Meetings. Not less than ten (10) days nor more than ninety (90) days before the date of every owners' meeting, the Secretary shall give to each owner entitled to vote at such meeting, written or printed notice stating the time and place of the meeting and in the case of a special meeting, the purpose or purposes for which the meeting is called, either by mail or by presenting it to him personally or by leaving it at his residence or usual place of business. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the owner at his post office address as it appears on the records of the Condominium, with postage thereon prepaid. Notwithstanding the foregoing provision, a waiver of notice in writing signed by the person or persons entitled to such notice and filed with the records of the meeting, whether before or after the holding thereof, or actual attendance at the meeting in person or by proxy, shall be deemed equivalent to the giving of such notice to such persons. Any meeting of owners, annual or special, may adjourn from time to time to reconvene at the same or some other permitted place, and no notice need to be given of any such adjourned meeting other than by announcement.

Section 6. Quorum. At any meeting of owners, the presence in person or by proxy of owners entitled to cast a majority of the votes shall constitute a quorum; but this section shall not affect any requirement under statute or under the Declaration of the Condominium for the vote necessary for the adoption of any measure. In the absence of a quorum, the owners present in person or by proxy, by majority vote and without notice other than by announcement, may adjourn the meeting from time to time until a quorum shall attend. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally scheduled.

Section 7. Votes Required. A majority of the votes cast at a meeting of owners, duly called and at which a quorum is present, shall be sufficient to take or authorize action upon any matter which may properly come before the meeting, unless more than a majority of votes cast is required by statute or by the Declaration.

Section 8. Proxies. An owner may vote either in person or by proxy executed in writing by the owner or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from its date, unless otherwise provided in the proxy. Every proxy shall be in writing, subscribed by the owner or his duly authorized attorney, and dated, but need not be sealed, witnessed or acknowledged.

Section 9. List of Owners. At each meeting of owners, a full, true and complete list in alphabetical order of all owners entitled to vote at such meeting shall be furnished by the Secretary.

Section 10. Voting. In all elections for directors every owner shall have the right to vote, in person or by proxy, for as many persons as there are directors to be elected. At all meetings of owners, the proxies and ballots shall be received, and all questions touching the qualification of voters and the validity of proxies and the acceptance or rejection of votes shall be decided by the Chairman of the meeting. Unless demanded or ordered by a majority of owners present, no vote need be by ballot, and voting need not be conducted by inspectors.

Section 11. Informal Action by Owners. Any action required or permitted may be taken without a meeting, if a consent in writing, setting forth such action, is signed by all of the owners entitled to vote on the subject matter thereof, provided said consent is filed with the records of the Condominium.

### ARTICLE III

#### BOARD OF DIRECTORS

Section 1. Powers. The business and affairs of the Condominium shall be managed by its Board of Directors. The Board of Directors may exercise all powers of the Condominium Association except such as are by statute or the Declaration or the By-Laws conferred upon or reserved to the owners. In particular, but not by way of limitation, the Board of Directors shall be responsible for, and have all necessary powers in connection with, the care,

upkeep, and surveillance of the building and other facilities of the Condominium, including its general and limited common elements, services, and Association-owned property, designation, hiring, and dismissal of the personnel necessary for the good working order of the buildings and to provide services for the buildings. The Board of Directors may delegate any of such responsibilities, or all and the expenses therefor shall be a common expense. The Board of Directors or any officer or officers to whom such power may be delegated, shall have power to take any action necessary or appropriate to enforce payment of all sums, including assessments against others, due the Condominium, including the power to enforce any lien for the same.

Section 2. Number of Directors. The numbers of directors of the Condominium shall be three (3).

Section 3. Election of Directors. Until the first annual meeting of owners or until successors are duly elected and qualified, the Board shall consist of Neal A. Barnes, J. Baxter Bailey and I. Roland Specter. At the first annual meeting of owners after control of the Association is delivered to the Unit Owners, the owners shall elect three (3) directors, one (1) to serve for one (1) year, one (1) to serve for two (2) years, and one (1) to serve for three (3) years. Thereafter, directors shall be elected for three (3) year terms or until their successors are elected and qualify (or for a shorter term to fill a vacancy arising for an uncompleted term), one (1) director being elected at each annual meeting to succeed the director whose term is expiring. At any meeting of owners, duly called and at which a quorum is present, the owners may, by the affirmative vote of the holders of a majority of the votes entitled to be cast thereon, remove any director or directors from office and may elect a successor or successors to fill any resulting vacancies for the unexpired terms of removed directors.

Section 4. Vacancies. Any vacancy occurring in the Board of Directors for any cause may be filled by a unanimous vote of the remaining members of the Board of Directors. A director elected by the Board of Directors to fill a vacancy shall be elected to hold office until the next annual meeting of owners and until his successor is elected and qualifies.

Section 5. Regular Meeting. After each meeting of owners at which a Board of Directors shall have been elected, the Board of Directors so elected shall meet as soon as practicable for the purpose of organization and the transaction of other business, at such time as may be designated by the owners at such meeting; and in the event that no other time is designated by the owners, the Board of Directors shall meet at 4:00 p.m. on the day of such meeting of the owners, if not a legal holiday, and if a legal holiday, then on the first day following which is not a Sunday or legal holiday. Such first meeting shall be held at such place within the State of North Carolina as may be designated by the owners, or in default of such designation, at the office of the Condominium in Nags Head, North Carolina. No notice of such first meeting shall be necessary if held as hereinabove provided. Other regular meetings of the Board of Directors shall be held on such dates and at such places within the State of North Carolina as may be designated from time to time by the Board of Directors.

Section 6. Special Meeting. Special meetings of the Board of Directors may be called at any time by the President or by the Board of Directors by a vote at a meeting, or by a majority of the directors in writing with or without a meeting. Such special meetings shall be held at such place or places within the State of North Carolina as may be designated from time to time by the Board of Directors. In the absence of such designation, such meetings shall be held at such places as may be designated in the call.

Section 7. Notice of Meeting. Except as provided in Section 5 of this Article, notice of the place, day and hour of every regular and special meeting shall be given to each director two (2) days (or more) before the meeting, by delivering the same to him personally, or by sending the same to him by telegraph, or by leaving the same at his residence or usual place of business, or in the alternative, by mailing such notice five (5) days (or more) before the meeting, postage prepaid, and addressed to him at his last known post office address, according to the records of the Condominium. Unless required by these By-Laws or by resolution of the Board of Directors, no notice of any meeting of the Board of Directors need state the business to be transacted. No notice of any meeting of the Board of Directors need be given to any director who attends, or to any director who, in writing, executed and filed with the records of the meeting either before or after the holding thereof, waives such notice. Any

meeting of the Board of Directors, regular or special, may adjourn from time to time to reconvene at the same or some other place, and no notice need be given of any such adjourned meeting other than by announcement.

Section 8. Quorum. At all meetings of the Board of Directors, two (2) directors shall constitute a quorum for the transaction of business. Except in cases in which it is by statute, by the Declaration, or by the By-Laws otherwise provided, the vote of a majority of such quorum at a duly constituted meeting shall be sufficient to direct and pass any measure. At any adjourned meeting at which a quorum shall be present, any business may be transacted at the meeting as originally notified.

Section 9. Compensation. By resolution of the Board of Directors, expenses of attendance, if any, may be allowed to directors for attendance at each regular or special meeting of the Board of Directors or of committees thereof, but directors as such shall not receive any compensation for their services except such as may be authorized or permitted by vote of the owners. A director who serves the Condominium in any other capacity, however, may receive compensation therefor without such vote of the owners.

Section 10. Informal Action by Directors. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if a written consent to such action is signed by all members of the Board or such committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Board of Directors or Committee.

Section 11. Committees. The Board of Directors may by resolution provide for such standing or special committees as it deems desirable, and discontinue the same at its pleasure. Each such committee shall have such powers and perform such duties, not inconsistent with law, as may be assigned to it by the Board of Directors.

Section 12. Indemnification. Every director and every officer of the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with a court proceeding to which he may become involved, by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of malfeasance or negligence in the performance of his duties; provided, that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all rights of indemnification to which such director or officer may be entitled.

Section 13. Budget.

A. The Board of Directors shall adopt a budget for each calendar year which shall contain estimates of the costs of performing the functions of the Association including, but not limited to:

1. COMMON EXPENSES OF THE CONDOMINIUM

- (a) maintenance and upkeep of common areas and elements;
- (b) maintenance and upkeep of association-owned real property and personal property;
- (c) staff payroll, supplies and office expenses;
- (d) managers salary or fees;
- (e) insurance;
- (f) common utilities, waste water treatment and disposal system maintenance and upkeep, which shall receive first priority of common expense funds;
- (g) service contracts;
- (h) fees and permits.

2. CAPITAL IMPROVEMENTS RESERVE

3. ANTICIPATED SPECIAL ASSESSMENTS

B. Copies of the proposed budget shall be transmitted to each member or unit owner on or before January 1 of the calendar year for which the budget is

made. If the budget is subsequently amended, then a copy of the amended budget shall be furnished immediately to each unit owner.

C. Accounting shall be on a cash basis and conform to generally accepted accounting principals.

#### ARTICLE IV

##### OFFICERS

Section 1. Executive Officers. The Board of Directors shall choose a President and Vice president from among the directors, and a Secretary and a Treasurer who need not be directors. Any two (2) of the above-mentioned officers, except that of President and Vice-President, may be held by the same person, but no officer shall execute, acknowledge or verify any instrument in more than one (1) capacity if such instrument be required by statute, by the By-Laws or by resolution of the Board of Directors to be executed, acknowledged or verified by any two (2) or more officers. Each such officer shall hold office until the first meeting of the Board of Directors after the annual meeting of owners next succeeding his election, and until his successor shall have been duly chosen and qualified, or until he shall have resigned or shall have been removed. Any vacancy in any of the above officers may be filled for the unexpired portion of the term by the Board of Directors at any regular or special meeting.

Section 2. President. The President shall preside at all meetings of the owners and of the Board of Directors at which he shall be present; he shall have general charge and supervision of the business of the Condominium; he may sign and execute, in the name of the Condominium, all authorized deeds, mortgages, bonds, contracts or other instruments, except in cases in which the signing and execution thereof shall have been expressly delegated to some other officer or agent of the Condominium; and, in general, he shall perform all duties incident to the office of President, and such other duties as from time to time may be assigned to him by the Board of Directors.

Section 3. Vice-President. The Vice-President, at the request of the President, or in his absence, or during his inability to act, shall perform the duties and exercise the functions of the President, and when so acting, shall have the powers and perform such other duties as may be assigned to him by the Board of Directors or the President.

Section 4. Secretary. The Secretary shall keep the minutes of the meetings of the owners and of the Board of Directors in books provided for the purpose; he shall see that all notices are duly given in accordance with the provisions of the By-Laws or as required by law; he shall be custodian of the records of the Condominium; and in general, he shall perform all duties incident to the office of Secretary, and such other duties as from time to time may be assigned to him by the Board of Directors or the President.

Section 5. Treasurer. The Treasurer shall have charge and be responsible for all funds, securities, receipts and disbursements of the Condominium, and shall deposit, or cause to be deposited, in the name of the Condominium, all monies or other valuable effects in such banks, trust companies or other depositories as shall from time to time be selected by the Board of Directors; he shall render to the President and to the Board of Directors, whenever requested, an account of the financial condition of the Condominium, and in general, he shall perform all duties as may be assigned to him by the Board of Directors or the President.

Section 6. Compensation. The Board of Directors shall have the power to fix the compensation of all officers of the Condominium Association.

Section 7. Removal. Any officer or agent of the Association may be removed by the Board of Directors whenever, in its judgment, the best interest of the Association will be served thereby, but such removal shall be without prejudice to the contractual rights, if any, of the person so removed.

Section 8. Loans to Officers and Directors. No loans shall be made by the Association to any of its directors or officers.

#### ARTICLE V

##### OBLIGATIONS OF THE OWNERS

Section 1. Assessments. Each owner is obligated to pay the assessments imposed upon him by the Condominium to meet general common element expenses, which shall include a liability insurance policy premium and shall include a fire and other hazard premium, including flood insurance. The assessments shall be made prorata according to the percentage interest owned as stipulated in the Declaration. Such assessments levied upon the owner of a unit shall become a lien on said unit at the time assessed and until paid in full. Each regular assessment levied shall be due and payable quarterly, within thirty (30) days after the dates of assessment, which said dates of assessment shall be the first day of January, April, July and October. Any special assessment, designated as such by the Board of Directors shall be due and payable when assessed. There will be no declaration in trust for enforcement of said lien.

Section 2. Maintenance and Repair.

(a) Every owner must perform all maintenance and repair work within his own unit which, if omitted, would affect the general or limited common elements, or any other unit, such owner being expressly responsible for the damages and liabilities his failure to do so may engender.

(b) All the repairs of internal installations of the unit such as water, light, power, telephones, cable television, doors, windows, lamps and all other accessories belonging to the unit area shall be at the owner's expense.

(c) An owner shall reimburse the Condominium for any expenditures incurred in repairing or replacing any general or limited common element damaged through his fault, other than damage arising from an insured casualty.

(d) During the period of November 1 through April 1 of each year, all owners must maintain heat within their respective units at a minimum of fifty (50) degrees of fahrenheit.

Section 3. Destruction of Buildings.

(a) In the event of the destruction of any part of the buildings of the Condominium, such destroyed part or parts shall be rebuilt unless such destruction amounts to more than two-thirds (2/3) in value of the total value. In such rebuilding, the proceeds of any casualty insurance shall be used to the extent available. As permitted and provided by the provisions of Section 2 of Article VI of these By-Laws, any excess funds shall be allocated to the units, general common elements, and limited common elements, damaged or destroyed, in proportion to the cost of restoring each such improvement of the facility. Costs in excess of such proceeds shall be paid (1) as to each unit by the owner thereof and (2) as to the general common elements and limited common elements, by assessment as for repairs to such elements.

(b) In the event of the destruction of any part or all of the buildings of the Condominium amounting to more than two-thirds (2/3) in value of the total value, if three-fourths (3/4) of the owners of the units shall duly resolve not to rebuild or restore the buildings at any owner's meeting called to consider the question of such restoration, the buildings shall not be restored, then and in that event:

(1) the property shall be deemed to be owned as a tenancy in common by the unit owners;

(2) the undivided interest in the property owned by the unit owners as tenants in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities;

(3) any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the unit owner in the property as provided herein;

(4) the property shall be subject to an action for sale for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of insurance policies, if any, shall be considered as one (1) fund and shall be divided among all the unit owners in proportion to their respective undivided ownership of the common areas and facilities, after first paying, out of the respective shares of unit owners, to the extent sufficient for that purpose, all liens on the unit of each unit

owner, and

(5) all real property owned by the Association itself shall be transferred by recordable instrument to the individual unit owners in the same proportions as their ownership in common area appears.

(c) In the event of partial or complete destruction of any waste water treatment facility or any appurtenance thereto, the same shall be immediately reconstructed to original specifications meeting with the approval of the Dare County Health Department and other appropriate governmental agencies, with the first proceeds of the insurance thereon, or in the event insurance proceeds are delayed, the same shall be reconstructed with capital improvement reserve funds and with common expense funds as may be necessary for said reconstruction. Provided, however, this provision shall not apply in the event the said condominium building itself is destroyed and the owners of units therein shall duly resolve not to rebuild or restore said buildings as provided in Section 3, Paragraph (b) above.

Section 4. Use of Condominium Units-Internal Changes. An owner shall not make structural modifications or alterations in his unit or installations located therein unless he has previously notified the Condominium in writing through the President of the Board of Directors and received no objection thereto. The Condominium shall have the obligation to answer within thirty (30) days, and failure to do so within that time shall mean that there is no objection to the proposed modification or alteration.

Section 5. Use of General Common Elements. The rules pertaining to the use of common elements also pertain to those properties conveyed to or owned by the Association which for the purposes of these By-Laws and for the determination of common expenses are treated as common elements. An owner shall not place or cause to be placed in the general common elements any furniture, packages, or objects of any kind. The general common elements shall be used for no other purpose than for normal transit through them, for access to the pool area or for such other restricted uses as may be designated by the Board of Directors.

Section 6. Right of Entry. Owners, by act of ownership, grant right of entry to any person authorized by the Board of Directors of the Condominium in case of any emergency originating in or threatening his unit, whether the owner is present at the time or not.

Section 7. Rules of Conduct.

(a) No resident of the Condominium shall post any advertisements or posters of any kind on the exterior of the Condominium or on common elements.

(b) Residents shall exercise care about making noises or in the use of musical instruments, radios, televisions and amplifiers that may disturb other residents.

(c) Clothing, towels and other items of personal property shall not be hung on exterior railings or on any other exterior part of the building.

ARTICLE VI

INSURANCE

Section 1. Protective Policies. The Board of Directors shall procure and maintain, in its name as agent or trustees for the benefit of the co-owners who shall be deemed parties insured, policies of insurance in stock or mutual insurance companies licensed to do business in the State of North Carolina, to the extent obtainable, as follows:

(a) a policy or policies insuring the building against loss, damage or destruction by fire or other casualty, including lightning, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicle, falling object, smoke, malicious mischief, vandalism, collapse through weight of snow, ice or sleet, water, flood, and other similar casualties, in an aggregate amount equal to the full insurable replacement value of the building, without regard to depreciation. The policy or policies, unless otherwise insuring the Condominium units against loss, damage, or destruction, shall have a contingent or conditional endorsement, with limits equal to the replacement value of the

Condominium units, providing for payment by the insurer of a sum sufficient for restoration of each unit to a tenable condition, in the event that the owner thereof shall fail or refuse to restore his unit within a reasonable time after loss, damage or destruction of such unit, by fire or other casualty insured against. In lieu of the foregoing insurance, the Board of Directors may procure and maintain such other insurance against loss, damage or destruction of the general common elements and the Condominium units, as shall give substantially equal or greater protection to the co-owners, as their interest may appear.

(b) such insurance as will protect the owners, and each of them, from claims under workmen's compensation acts and other employee benefit acts.

(c) such insurance as will protect the manager, the Board of Directors, the owners and each of them, from claims for damage to the property, any or all of which may arise out of or result from ownership of any interest in the Condominium project or the management or operation of said project, or because of any injury or damage sustained on or attributable to the property, including the ownership, maintenance and use of the parking areas outside of the building. It is intended that the insurance described in this subparagraph (c) be a comprehensive general liability policy endorsed to protect each co-owner against all liability arising out of or otherwise attributable to the property, including operation of the premises, products liability, liability attributable to work or other act of an independent contractor, or let or sub-let work, landlord-tenant liability, and contractual liability. Further, the insurance shall cover the liability of one or more co-owners, as parties insured. Such public liability insurances shall be in the limits of at least \$100,000.00 for injuries or damages sustained by any one person, \$300,000.00 for injuries or damages sustained by two or more persons in any one accident, and \$10,000.00 for property damage. The public liability insurance policy shall be so endorsed as to protect the insured against liability imposed or assumed by any contract.

(d) In all events, each policy of insurance procured under this Section 1 of Article VI shall contain a waiver of the insurer's subrogation rights against each co-owner, and a waiver of any defense maintainable by the insurer by reason of any co-insurance provision of any policy or by reason of any act or neglect of any co-owner, whether before or after the loss, damage or destruction may occur. Further, each policy of insurance shall provide that any co-owner in his own right may procure other insurance, fire casualty, liability or otherwise, and that such other insurance shall in no way serve to reduce, abate or diminish, or cause any proration in payment of the total loss by the insurer. Each policy of insurance procured under Paragraphs (a) or (b) of this section shall state that the exclusive right and authority to adjust losses under the policy shall be vested in the Board of Directors.

Nothing provided in this Article VI shall prejudice the right of any co-owner to insure his Condominium unit on his account and for his own benefit, or to insure himself against liability to others. If the co-owners, however, shall procure fire or casualty insurance covering his Condominium unit or his interest in the Condominium project, he shall file with the Board of Directors a duplicate of the insurance policy.

Section 2. Repairs and Replacement. Unless more than two-thirds (2/3) of the Condominium project is destroyed, the proceeds of any insurance policy procured under the provisions of Paragraph (a) of Section 1 of this Article VI shall be applied to repair, restore and reconstruct the common elements destroyed by the casualty insured against and thereafter, if there be any surplus, to repair or restore the Condominium units damaged by said casualty. If the proceeds of insurance are insufficient to cover the cost of any necessary repair, replacement or restoration of the common elements, such excess cost shall be paid by the co-owners as a common expense, upon special assessment therefor and levy thereof by the Board of Directors against each co-owner in accordance with his percentage interest factor.

Section 3. Disbursement of Insurance Proceeds. If more than two-thirds (2/3) of the buildings are destroyed, then the disbursement of the proceeds of all insurance policies shall be paid in accordance with and governed by the provisions of Section 3 of Article V.

Section 4. Application for Insurance. Each owner shall furnish such information and sign such application forms or other documents, if any, as may be required to obtain insurance as provided in this Article VI.



ARTICLE VII

FINANCE

Section 1. Checks, Drafts, etc. All checks, drafts and orders for the payment of money, notes and other evidences of indebtedness, issued in the name of the Condominium, shall be signed by officers, agents or manager of the Condominium, as determined by the Board of Directors.

Section 2. Annual Reports. There shall be prepared annually a full and correct statement of the affairs of the Condominium, including a balance sheet and a financial statement of operations for the preceding fiscal year, which shall be prepared by an independent certified public accountant and distributed to the owners and filed at the principal office of the Condominium.

Section 3. Fiscal Year. The fiscal year of the Condominium shall be the calendar year, unless otherwise provided by the Board of Directors.

ARTICLE VIII

AMENDMENTS

Section 1. By-Laws. These By-Laws may be amended by the Condominium Association at any duly constituted meeting, provided, the notice thereof shall specify the amendment to be voted on, and provided the same is approved by at least two-thirds (2/3) of the owners; subject, however, to the restrictions set forth in Article II, Section 1, of the By-Laws. All unit owners shall be bound by any amendment upon the same being duly passed and set forth in an Amended Declaration duly recorded in the Dare County Registry.

ARTICLE IX

MORTGAGES

Section 1. Notice to Association. An owner who mortgages his unit shall notify the President of the Board of Directors of the name and address of his mortgagee; and the Condominium shall maintain such information in a book entitled "Mortgagees of Units". Each Condominium unit is subject to alienation, mortgage or transfer as is any other real property located within the State of North Carolina; however, no Condominium unit owner may mortgage or convey by deed of trust his apartment or Condominium unit or convey the same as collateral, to any person, firm or corporation except as said conveyance, mortgage or deed of trust shall be a first lien deed of trust or first mortgage or a purchase money mortgage or deed of trust on the Condominium unit, unless prior approval is obtained from the Association.

## Exhibit D

## Building Description

The condominium building is a concrete/masonry structure built in three stacks or columns running in a northeast to southwest direction with the northeastern stack being closest to the ocean. The exact layout, elevations, floor plans and other particulars of the units are set forth on the plans for the condominium units which have been filed simultaneously with this declaration. Reference is made to those plans, including the plat of the property with building locations shown thereon, for more particular description and those plans are incorporated by reference into this description. The building is three stories in height and is connected so as to compose one continuous building consisting of the three stacks described above.